

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
SEPTEMBER 11, 2019**

CALL TO ORDER A meeting of the Flathead County Planning Board was called to order at
6:01 PM approximately 6:00 p.m. at South Campus Building, 40 11th Street W, Ste.
200, Kalispell, Montana. Board members present were Dean Sirucek, Greg
Stevens, Sandra Nogal, Jeff Larsen, Ron Schlegel, Jim Thompson, and Elliot
Adams, Mike Horn and Kevin Lake. Donna Valade, Rachel Ezell, Erin
Appert and Mark Mussman represented the Flathead County Planning &
Zoning Office.

There were 54 members of the public in attendance.

APPROVAL OF Nogal made a motion, seconded by Sirucek, to approve the August 14, 2019
MEETING
MINUTES meeting minutes.

6:02 PM Motion passed unanimously on a roll call vote.

PUBLIC None
COMMENT
(Public matters that
are within the
jurisdiction of the
Board 2-3-103
M.C.A)
6:02 PM

DISCLOSURE OF None
ANY CONFLICT
OF INTERESTS
6:03 PM

AMENDED PLAT A request from Bruce Tutvedt, with technical assistance from Marquardt
OF LOT 2, LOST Surveying for preliminary plat approval of Amended Plat of Lot 2, Lost Hills
HILLS Subdivision, a proposal to create two (2) lots intended for residential use on
SUBDIVISION approximately 10.75 acres. The applicant is proposing individual wells and
(FPP-19-11) septic systems and primary access will be from an existing approach for shared
6:04 PM access off Farm to Market Road. The property is located at 3235 Farm to
Market Road.

STAFF REPORT 6:05 PM	Donna Valade reviewed staff report FPP-19-11 for the board.
BOARD QUESTIONS 6:08 PM	None
APPLICANT PRESENTATION 6:08 PM	Dawn Marquart with Marquardt Surveying, 201 3 rd Ave W., represented the applicant this evening. She said it was a continuation of the subdivision from last year. She did not have anything to add to the staff report but was available for questions.
BOARD QUESTIONS 6:09 PM	None
AGENCY COMMENTS 6:09 PM	There were no public agencies present to comment. The staff reviewed the written comments during the staff report presentation.
PUBLIC COMMENT 6:09 PM	None
MAIN MOTION TO ADOPT F.O.F. (FPP-19-11) 6:10 PM	Schlegel made a motion, seconded by Sirucek, to adopt staff FPP-19-11 as findings of fact.
BOARD DISCUSSION 6:10 PM	None
ROLL CALL TO ADOPT F.O.F. (FPP-19-11) 6:10 PM	Motion was passed unanimously on a roll call vote.
MAIN MOTION TO RECOMMEND APPROVAL (FPP-19-11) 6:10 PM	Lake made a motion, seconded by Nogal, to recommend approval of FPP-19-11 to the Board of County Commissioners.

**BOARD
DISCUSSION
6:11 PM**

None

**ROLL CALL TO
RECOMMEND
APPROVAL
(FPP-19-11)
6:11 PM**

The motion passed unanimously on a roll call vote.

**BATES
ZONE CHANGE
(FZC-19-14)
6:11 PM**

A zone change request from Sands Surveying on behalf of Robert W. Bates and Savita K. Chaudhry for property in the Highway 93 North Zoning District. The proposal would change the zoning on property located at 181 Whitefish Trail South in Kalispell, MT from *SAG-10 (Suburban Agricultural)* to *SAG-5 (Suburban Agricultural)*. The total acreage involved in the request is approximately 12.05 acres.

**STAFF REPORT
6:12 PM**

Donna Valade reviewed staff report FZC-19-14 for the board.

**BOARD
QUESTIONS
6:14 PM**

None

**APPLICANT
PRESENTATION
6:14 PM**

Eric Mulcahy with Sands Surveying, 2 Village Loop, represented the applicant. They were in agreement with the staff report. He discussed the history of how the applicants had taken care of the property.

**BOARD
QUESTIONS
6:15 PM**

None

**AGENCY
COMMENTS
6:15 PM**

There were no public agencies present to comment. The staff reviewed the written comments during the staff report presentation.

**PUBLIC
COMMENT
6:15 PM**

None

MAIN MOTION TO ADOPT F.O.F. (FZC-19-14) 6:15 PM	Sirucek made a motion, seconded by Schlegel, to adopt staff FZC-19-14 as findings of fact.
BOARD DISCUSSION 6:16 PM	None
ROLL CALL TO ADOPT F.O.F. (FZC-19-14) 6:16 PM	Motion was passed unanimously on a roll call vote.
MAIN MOTION TO RECOMMEND APPROVAL (FZC-19-14) 6:16 PM	Schlegel made a motion, seconded by Lake, to recommend approval of FZC-19-14 to the Board of County Commissioners.
BOARD DISCUSSION 6:17 PM	None
ROLL CALL TO RECOMMEND APPROVAL (FZC-19-14) 6:17 PM	The motion passed unanimously on a roll call vote.
LESLIE COATES ZONE CHANGE (FZC-19-16) 6:17 PM	A zone change request from Leslie A. Coates for properties in the Holt Zoning District. The proposal would change the zoning on property located at 307 Chapman Hill Road in Bigfork, MT from <i>SAG-10 (Suburban Agricultural)</i> to <i>R-3 (One-Family Residential)</i> . The total acreage involved in the request is approximately 1.0 acres.
STAFF REPORT 6:18 PM	Erin Appert reviewed staff report FZC-19-16 for the board.
BOARD QUESTIONS 6:20 PM	Larsen asked what BLUAC had recommended. She said they recommended adding a sentence in Finding of Fact #1. Nogal found the recommendation on the BLUAC minutes and read it out loud.

**APPLICANT
PRESENTATION
6:21 PM**

Nathan Lucke with 406 Engineering, 905 South Main Street, represented the applicants. He thanked the staff with the assistance and was in agreement with the staff report. He reiterated to the board that there was a unanimous recommendation of approval from BLUAC. He was available for questions

**BOARD
QUESTIONS
6:21 PM**

Larsen asked if he was ok with the revision of Finding of Fact #1 that BLUAC had recommended. Lucke said he was and explained the discussion with BLUAC regarding the neighborhood plan and policies. He explained that this particular property was surrounded by other dense development. His interpretation to the addition [that BLUAC suggested] was to emphasize that this property was appropriate for the neighborhood.

Sirucek asked if the property would be divided in to three equal tracts. Lucke said it was currently a 1 acre tract now, with an existing residence in the center of the property. He said if they were to move forward with a subdivision it would be divided in to a north to south direction.

Sirucek also asked how he was going to handle the access and turn arounds for emergency vehicles. Lucke said development was a long, arduous, process with many stops and zoning was just one part of the process. Sirucek said he understood that but wanted to know how he was going to accomplish the safety item in this proposal. He felt that it was an important part of the zoning process. Lucke said he hadn't looked in detail at that yet so he was unable to give a technical answer but he had looked at it efficiently enough to know that the access would likely be along the northern property boundary. The cul-de-sacs would be fairly large. He discussed the option of having a hammerhead turnaround so that fire vehicles could get in and out of there. Sirucek asked if there was enough acreage to accomplish the lots as well as the turnarounds. Lucke said he would need to look at the subdivision regulations to confirm the width of the right of way needed. He said, as far as space, the surrounding neighborhood has been developed with parcels that were much smaller than what would be proposed on this subject property. It would be served by city sewer and water, which would address the constraints that Sirucek was concerned about. Lucke said he could give more information. Sirucek expressed that it looked to be extremely tight.

Schlegel said they were just doing a zone change. Sirucek said he realized that, but if they agreed to a zone change, they were somewhat agreeing to [*in audible*]. Schlegel said they had to get approved and then bring it back for subdivision review and approval.

**AGENCY
COMMENTS
6:27 PM**

There were no public agencies present to comment. The staff reviewed the written comments during the staff report presentation.

PUBLIC

None

COMMENT

6:27 PM

**MAIN MOTION
TO ADOPT F.O.F.
(FZC-19-16)**

6:27 PM

Sirucek made a motion, seconded by Nogal, to adopt staff FZC-19-16 as findings of fact.

**BOARD
DISCUSSION**

6:28 PM

Nogal wondered if they should accept the change recommended by BLUAC. She decided she would make a motion on it.

**MOTION TO
AMEND F.O.F. #1**

6:28 PM

Nogal made a motion, seconded by Schlegel, to accept the recommended change by BLUAC as stated in their [draft] August minutes. It shall state:

1. The proposed zoning map amendment generally complies with the goals and objectives of the Bigfork Neighborhood Plan because it supports residential development consistent with surrounding development and with access to public facilities and services and minimal environmental constraints. The proposed zoning map amendment does not comply with the Bigfork Neighborhood Plan Future Land Use Map because the property is designated as 'Suburban Residential' and the proposal is more compatible with the 'Urban Residential' designation. *However, the zoning is appropriate because it is consistent with surrounding development.*

**BOARD
DISCUSSION**

6:28 PM

None

**ROLL CALL TO
AMEND F.O.F. #1**

6:28 PM

Motion was passed unanimously on a roll call vote.

**ROLL CALL TO
ADOPT F.O.F.
(FZC-19-16)**

6:29 PM

Motion was passed unanimously on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZC-19-16)**

6:29 PM

Schlegel made a motion, seconded by Lake, to recommend approval of FZC-19-16 to the Board of County Commissioners.

BOARD

None

DISCUSSION**6:29 PM****ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-19-16)
6:29 PM**

The motion passed unanimously on a roll call vote.

**DUGAN MAJOR
LAKESHORE
VARIANCE
(FLV-19-04)
6:3 PM**

A request by Jolene Dugan for a Major Lakeshore Variance to the fill standards of the Flathead County Lake and Lakeshore Protection Regulations, specifically Sections 4.3F(2)(h)(1-2, 4-6). The applicant is seeking to construct a 'Modified Dynamic Equilibrium Beach' on the shore of Flathead Lake. The subject properties are located at 440, 482 and 494 Holt Drive, Bigfork, Montana.

**STAFF REPORT
6:30 PM**

Rachel Ezell reviewed staff report FLV-19-04 for the board.

**BOARD
QUESTIONS
6:34 PM**

None

**APPLICANT
PRESENTATION
6:35 PM**

Randy Overton, 167 Indian Trail Road, was the technical representative for the applicant. He explained the history behind the property and the current shoreline erosion occurring. He had discussed the project with coastal engineers whom had worked on the Federal Shoreline in 1989. He adopted a model from that and explained what they had used and said it had held up pretty well. The whole idea was that it should stay in place with little maintenance. He said the original design of what was currently there called for 6" to 8" gravel but somehow had been changed to small gravel. Since that failed, they would like to change to something that would work. He said the whole idea was to reform the beach so that it would be more uniform with an 8 to 1 slope with a run-up that will absorb a lot of energy. He continued to explain the fundamentals of the design in detail. He believed that the adjacent land owners would adopt the same thing later on down the line. He said he was putting together a nationwide permit for a shoreline protection, similar idea of what was approve by the Corp. before, however, with a different design and different sized materials.

He addressed the concern brought up at the BLUAC meeting regarding the bridge and he said that it would not have any influence or interference with the shoreline project. This had been taken in to account when the bridge was put in.

**BOARD
QUESTIONS
6:41 PM**

Sirucek confirmed with Overton that there had been about 30-35' of shoreline lost. Overton said that was true and that they had lost around 5-6' of shoreline in the last storm. That was what Sirucek thought.

Sirucek asked if Overton planned on using the bridge for accessing machinery or gravel. Overton said no, he was not involved with the bridge at all, but by the time this all took place, the water would be down and could be done by a combination of on top and on the lakebed. There was no need to get on the bridge or use it [in any way]. Sirucek asked if, once they removed the bridge, they would have to do some patching up. He said yes, perhaps, but he was not sure what would be necessary. He said if it was needed, it was anticipated in the federal permit. Sirucek asked if he was taking that in to consideration; if they were looking at the floodplain permits and 404 permits. Overton said anything he would need to do would fall under "maintenance" and would only require a courtesy call to the Corp.. Sirucek said that was correct under the 404 permit but wasn't sure about the floodplain permit.

Nogal brought up the concern over access over wetlands. Overton said that, as he understood, it would be up to the applicant to sort out. He said an adjacent land owner had an existing road that went down to the beach and that was accessible for usage. They would start to work from the top of the shoreline then work their way down.

Schlegel said he was confused because the rock that was going to be used was washed round rock. Overton said it would be a mix of sand, gravel, and cobbles. Schlegel said, in big wave action, that [mixture] was not going to hold anything. He asked why they wouldn't use fractured rock, other than the fact of being easier to walk across [the washed round rock]. Schlegel said, if they were really concerned and wanted to do something about this, larger fractured rock was going to hold higher waves. He wanted to know why that wasn't proposed.

Overton responded that, because of the performance of the kind of material they were talking about, on the federal property. It had been there for over 20 years and had held very well. It as a mix of those kinds of material. Schlegel said in some areas [it had held up] but in other areas it had failed. Overton agreed but was talking about the lakeshore as opposed to the river, where the areas [that had failed] was due to them not building a base/foundation first. Here, because they had to repair the shoreline, they would be doing a lot of that and then placing protection on top of that; which would be the mix. He said a lot of it depended on what the federal permit looked like.

Schlegel said the reason why he brought that up was because he did a lot of work on the streams and rivers. He said you had to use angular rock for that because of the flow of the river during high water time. It was not any different than when there was high wave action. He felt there really should be

angular rock and larger rock if they really wanted to stabilize something. He said that [the board] had gone through stuff with this bank before and they had all failed. Schlegel said he was not going along with the round river rock garbage because he saw it failing again. Overton said he would be open to getting together with anybody who was interested in walking along the federal property to look at where it had been successful and where it had weaknesses. He said there was a long history. Schlegel said some of it was not very long ago and had failed within the last 4 years. Overton asked if that had been on the Federal property and Schlegel replied on the private property; which was basically like what they had done on the federal property. Schlegel said he was not buying it.

Overton felt the fact that he had engineer support was pretty good. He said they were some of the best coastal engineers in the world; global operators and people involved in doing federal work.

**AGENCY
COMMENTS
6:48 PM**

There were no public agencies present to comment. The staff reviewed the written comments during the staff report presentation.

**PUBLIC
COMMENT
6:48 PM**

Chany Ockert, 255 Echo Chalet, was a member of the BLUAC but was speaking as a private citizen. She explained the concern of the access which had been brought up during the previous BLUAC meeting. She pointed out that the access would be on an adjacent property owner's property. She said the variance was to stay with the property. Their concern was, with the lawsuit and the cost of removing the bridge, was the possibility of a bankruptcy. If there was a bankruptcy, and a different owner, would that access site even be available to use? She pointed out the other property , [adjacent] to the subject property, was the water fowl protection area.

Elsa Putzier, 10 Sunset Pl., spoke in opposition of the application. She felt they were putting the cart before the horse. She was concerned about the increase of traffic which would occur when they took down the bridge. She expressed that when the property owner put up the fancy gate, and blocked everybody out, they drove through the wetlands. She was concerned they would do so again. She felt it would make sense for them to remove the bridge first and then maybe reapply for a permit to improve the beach.

Jeanne Southwood, 679 Pommel Dr., spoke in opposition of the application. She was concerned about impact of the beach after removing the bridge. She said the heavy equipment would have to access the subject beach. She said it made no sense to put any erosion protection before taking down the bridge.

Jeffrey Funk, 990 McCaffery Rd, spoke in opposition of the application. He was there on his own behalf and also on the behalf of the Community Association for North Shore Conservation. He read a statement concerning the

bridge and the history of the property. He was concerned and listed off a number of activities that had allegedly been done illegally and believed no permits should be considered until the landowner had demonstrated both the intention and the capacity to perform the restoration work currently required. He stated that an engineer solution of rock, of any sort, was not consistent with the wetlands and water transfers. It was basically a lost cause. He said he encouraged the Planning Commission to consider the credibility of the owner's representative and said he had been a hired consultant for the bridge. He also said that Overton had made the case that what was indeed wetlands, were not actually wetlands. He asked that they seek other expert advice.

Edd Blackler, 33435 Quarter Circle Way, spoke in opposition of the application. He was in agreement with Funk. He blamed bad planning which allowed the bridge to be constructed in the first place and should not have been approved. He did not want to see anymore "bad planning". He asked that before approving this application, all the permits and things be applied for and in place. He felt the sequence should make sense. He was in agreement that some action needed to take place but what kind was debatable. He felt that whatever actions or improvements were taken, they needed to be taken across the whole expanse of the shoreline. If people did not do the same thing, whoever chooses not to, would suffer greatly because the erosion would be exacerbated and would come around the edge of what they put in there. He wanted to make sure that, when the times comes, and the permit is asked for the lakeshore that everybody would get on board and do the same thing. He felt that was the only thing that would make sense to stop the erosion. He was also concerned about the impact the dynamic beach would have on the wetlands; possibly causing the erosion to travel around the dynamic beach and into the wetland area. That was a major concern of his. He said the road crossed the property and therefore they needed another permit. He asked that the board "plan well".

**APPLICANT
REBUTTAL
6:59 PM**

Overton addressed that when people got up in a public forum and made accusations against people's characters, they needed to be careful. He said he was being truthful that he did not have anything to do with the bridge. He felt an apology was in order.

He discussed his experience with the shoreline protection in the Pudget Sound area and said it was never done all at once, it was done in patch work. There would be people who could not afford to do it all at once but that should not get in the way of allowing someone to protect their shoreline.

Sirucek discussed the order of permits needed and felt their process was in the correct sequence.

**STAFF
REBUTTAL
7:02 pm**

None

**MAIN MOTION
TO ADOPT F.O.F.
(FLV-19-04)
7:03 PM**

Sirucek made a motion, seconded by Nogal, to adopt staff FLV-19-04 as findings of fact.

**BOARD
DISCUSSION
7:03 PM**

Nogal questioned and Ezell addressed the BLUAC's recommendation; being that they had scrapped the 5 finding of facts written and replaced it with one which stated "that it was premature". That finding of fact would likely support a denial. She stated that they either needed to adopt the staff's report or BLUAC's recommended finding of fact. Larsen clarified that they had motioned for the staff's finding of facts.

**ROLL CALL TO
ADOPT F.O.F.
(FLV-19-04)
7:04 PM**

Motion was passed unanimously on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FLV-19-04)
7:05 PM**

Sirucek made a motion, seconded by Stevens, to recommend approval of FLV-19-04 to the Board of County Commissioners.

**BOARD
DISCUSSION
7:05 PM**

Sirucek explained that when the Kerr Dam license was renewed 5 years ago, it allowed the elevation of the lake to stay up. The last few years, the fall and winters have had very significant storms coming from the southeast. He said we were living in a different situation with amount dynamic erosion acting on the beaches and the time frame that it was occurring. It was different than it was 5 years ago. He had a hard time with the timing because of the bridge removal and legal aspects but those things could be going on for several years. He felt to deny this because of the bridge situation was not the correct thing to do, especially with the change of erosion potential out there.

Larsen asked Sirucek, based on his experience, if the dynamic equilibrium beaches could work. Sirucek said he was in agreement with the engineer, however, he did feel like the material during the first go-around was much too small. He said some of the later and better work seemed to have lasted longer and had taken the effect of the waves better. He also agreed with Schlegel that he would like to see a mixture of more angular material. He said if there was a 30% mixture of angular material it would create a stronger material but the board should not be designing it as it was not their role.

Schlegel addressed the public and said the board had nothing to do with the bridge. They were all surprised that it had not come before them but it did not. He was concerned and agreed with BLUAC that it should be taken out [prior]. He was not impressed with the design based on his professional experience. He reiterated that round rock did not work. He would like to see something done differently; a different design, maybe a mixture like Sirucek had suggested. He wanted something that was not going to roll back in to the middle of the lake. He shared what he had seen in his professional experience. He wanted to see this project in the long run but wanted the bridge removed prior.

Larsen said he understood why the community wanted the bridge removed but the question remained if they were tied together. That was a difficult question and he was not sure the answer.

Stevens said he heard the question come up of what would happen if they waited. What he had heard from Sirucek was that the bridge removal could be a lengthy process and he was concerned that maybe they should do it now rather than later. Sirucek's testimony influenced his opinion that it might be best to do it now rather than wait. He was concerned with the higher lake level and how many bad storms they were going to get. He was concerned that waiting might not be a good idea.

Adams echoed what Stevens had said. He said that it looked like, even if they tore the bridge out afterwards, it did not seem like it would be that big of a deal to come back and patch it up. He did agree with Schlegel that the design did not seem ideal with the 6" round rock. He did feel that fixing it would be best.

Nogal was concerned about less than admirable behavior by the landowner. She did not like having their backs up against the wall to make a decision to help the erosion but the bridge needed to be taken out. She was not questioning erosion or repairing the erosion, but looking at the bigger picture, she did not like what it was coming down to.

Lake said they had no idea what was going to be happening with the bridge but they did know what was going to be happening with the beach. He agreed that the design was flawed but felt like they needed to take action on the beach.

Nogal asked Larsen if it were to pass the board, would the issue of access and other permits be resolved. She wondered what would happen then. Sirucek said they would put in for a floodplain permit and 404 and the variance would come in. He said, step wise, all they were asking was to use a different rock size. It had nothing to do with the access, which would be a part of the other

permits. Schlegel agreed that it would be addressed in the other permits.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FLV-19-04)
7:17 PM**

The motion passed on a 7-2 roll call vote. Schlegel and Larsen dissented.

**DARREL &
LORETTA
COVERDELL
ZONE CHANGE
(FZC-19-15)
7:18 PM**

A zone change request from Darrel E. & Loretta J. Coverdell for property in the Bigfork Zoning District. The request is for a zone change from *SAG-5 (Suburban Agricultural)* to *B-3 (Community Business)* on Lot 1A of the amended plat of Flathead Swan Junction Unit #2 and from *B-3 (Community Business)* to *SAG-5 (Suburban Agricultural)* on Lot 2A of the amended plat of Flathead Swan Junction Unit #2. The property is located 2850 MT Highway 82 in Bigfork, MT and contains approximately 25.6 acres.

**STAFF REPORT
7:19 PM**

Rachel Ezell reviewed staff report FZC-19-15 for the board.

**BOARD
QUESTIONS
7:21 PM**

None

**APPLICANT
PRESENTATION
7:22 PM**

There was no applicant present. Ezell had forwarded a message during her staff report that the applicant wished her to forward the message that this was being done to accommodate a boundary line adjustment that was done to build a fence along the two property lines.

**AGENCY
COMMENTS
7:22 PM**

There were no public agencies present to comment. The staff reviewed the written comments during the staff report presentation.

**PUBLIC
COMMENT
7:22 PM**

None

**MAIN MOTION
TO ADOPT F.O.F.
(FZC-19-15)
7:22 PM**

Sirucek made a motion, seconded by Horn, to adopt staff FZC-19-15 as findings of fact.

**BOARD
DISCUSSION
7:23 PM**

None

**ROLL CALL TO
ADOPT F.O.F.
(FZC-19-15)
7:23 PM**

Motion was passed unanimously on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZC-19-15)
7:23 PM**

Lake made a motion, seconded by Adams, to recommend approval of FZC-19-15 to the Board of County Commissioners.

**BOARD
DISCUSSION
7:23 PM**

Sirucek said that he had known the property very well and what the Coverdells were proposing made a lot of sense. He supported it.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZC-19-15)
7:24 PM**

The motion passed unanimously on a roll call vote.

**BOARD BREAK
7:24 PM**

**SPRING CREEK
ADDITION
ZONING
DISTRICT
(FZD-19-01)
7:35 PM**

A request by the Spring Creek Neighborhood Association to create a new zoning district that will be called the Spring Creek Addition Zoning District. The request further proposes that approximately 623.4 acres be zoned AG-20 Agricultural and approximately 1,570 acres be zoned SAG-15 Suburban Agricultural (FZTA-19-01). The property is located approximately 2,000 feet west of Highway 93 and approximately 2.8 mile north of Lakeside. Approximately 1,262 acres of this request is located within the boundaries of the Lakeside Neighborhood Plan.

**STAFF REPORT
7:36 PM**

Mark Mussman reviewed staff report FZD-19-01 for the board.

**BOARD
QUESTIONS
7:43 PM**

Sirucek said he was under the impression that the number of non-conforming lots were an issue. Mussman said there was mention of the number of existing parcels that were non-conforming but a comment had been added stating that it was not really a concern because of the multitude of properties that had been zoned throughout time, in Flathead County, that did not meet minimum lot size for their established zoning. Stevens said two wrongs must make a right.

Mussman replied that, conventional wisdom would lead one to think that with well over half of the properties being under 15 acres, it would not be that good of an idea. Sirucek said that was his interpretation of the issue. Mussman said if they wanted to try to zone this area, zoning was supported in this area, and they did not want to create any legal non-conforming lot sizes, then it would have to be R-1. That was a residential zone that allowed agricultural activities but did not reflect the current uses in that area. There were a lot of 10 acres parcels, or 5 acre parcels, and therefore, a SAG-5 or SAG-10 would be appropriate as well. Sirucek asked if it were zoned SAG-5, if the number of non-conforming would be significant less. Mussman said if this area were zoned SAG-5, with the exception of the Forest Land area, there would be 21 non-conforming out of approximately 106 parcels. There were currently 62 out of the 106 parcels were under 15 acres.

**APPLICANT
PRESENTATION
7:47 PM**

Joel Nelson with Land Solutions, 42672 Park Circle Dr., represented the association/applicants. He said the potential county zoning came from the people in the area and discussed the reason and how it came about. He discussed the potential of a camp being developed in the area; with 96 campers and staff. There would be a pavilion, a large stage, rope course, and other recreational facilities. It was concerning for some of the people near the area. They became aware of the lack of restrictions in the area and lack of government control over a camp like that. There were concerns of the impact from the camp. They contacted an attorney who suggested zoning the area might be appropriate. The essential concern was that, because there were no rules in the area, zoning might be the direction to go. He discussed how they came about boundary lines and what the district would entail. He said the lines drew themselves. Once they decided on the district boundaries, they had suggested a SAG-10 which matched the neighborhood plan and complied with the county growth policy. They presented it to the association but some had suggested a SAG-15. Once they had submitted the application, they tracked the number of supporters. He discussed the pre-app meeting they had with the Planning and Zoning Department. He said the camp was the initial reason behind the discussion but it presented a glaring issue that happens in rural areas which did not have zoning; it exposed people to possible heavy impacts. He said the county wanted to see a high level of public support for this application. They tried to track the numbers and kept a map to show the support. He said at some point there was 56/102 signatures of support. He said well over 55%. He saw that some had signed the petition of support and then signed a petition opposing the zoning. The numbers went from 56 to 43. So far about 1/3 of the parcels owners that had not signed either way. He discussed the numbers of support but said there was no magical number. He said it was noteworthy to look at those who had signed in favor of the zoning, which was about 60%. He said there was never going to be 100% support for any type of zoning and the zoning could be altered in the future. He said the county did not have a very heavy hand in zoning; there were no permits required. He said the camp would not be prohibited but would be encouraged

**BOARD
QUESTIONS
8:05 PM**

to be discuss it at the county level. He said it provided a conditional use process for camps and retreats; big projects that might choose to locate in the area because it was not zoned. It was not just about the camp, it was about the landowners who were asking for this to be put in place to help protect them from large impact projects. He said it was balancing the property rights. A large church camp could have huge impacts. He also addressed that there had been some suggestions made that the property taxes would be raised and said that zoning did not affect the taxes.

Larsen asked how many total tracks there were in the area. He said he had counted 102 but Mussman had mentioned 106.

Adams asked about the petition for the neighborhood support and asked if he was aware that there were multiple signatures that were the same. Nelson said if some signed multiple times it would be representative of having multiple tracks or a property owner vs. a renter.

Sirucek asked why they considered AG-20 rather than AG-80 for the forest service parcel. Nelson said it was mainly due to the neighborhood plan. Sirucek asked why the SAG-15 when there were so many tracks that were smaller than SAG-15. Nelson said that at one of the [neighborhood association] meetings, those who were more vocal felt that a SAG-15 would be more appropriate. Sirucek pointed out that at almost every meeting that the board has had, they have had a zone change from a SAG-10 to SAG-5, implying that zoning can change. There was no way that they could keep it that way forever. He felt there was misrepresentation to the association of how zoning worked in the county. Nelson replied that zoning was fluid and can change, evident by the agenda tonight.

Nogal asked if the neighborhood association represented everything that was highlighted on the map. They replied no. Nogal asked who came up with the financial backing for the fee. Nelson said it had been, thus far, by donation.

Horn asked about the covenants involved. Nelson said he was not aware of any covenants. Horn agreed with the sentiment and felt 60% [approval] was not high enough. He also stated that people were trying to create estate size parcels, however, many of the parcels were less than 15 acres. He did not think that it should be presented as an estate type zoning. He was curious to know more about the people proposing this application and how much support they had.

Conner Walker with Frampton & Purdy Law Firm, 530 West 19th St., was the legal representation for the applicants. He discussed how they had gotten involved after some of the neighbors had heard about the camp and had gotten together. Initially there were about 60 people who came to a meeting at the firehouse in Somers to see what they could do. They were advised to form a

neighborhood association. It was not an HOA. He said the boundary was not a boundary like an HOA boundary. It was a voluntary group of people in the neighborhood that contributed money voluntarily to a non-profit organization and thus the donations went to that in order to pay the bills. Sirucek asked if it was registered and Walker replied that it was registered as a non-profit with the state of Montana. Walker said it initially came together due to the camp but then people started realizing the potential high impact activities that could come to the area. They were concerned for their neighborhood. The way to handle that was through zoning and that was what they encouraged them to do. Then they handed it off to [Land Solutions].

Horn interjected that nobody could afford the price of the property and then have a pig farm. Walker said if they wanted to burn through money, but the point was that they realized there was nothing that the neighbors could do about it [because it was not zoned]. Horn asked about the high density planning that had been referred to. Walker said he did not have the exact documents but pointed out on the projector where the condominiums were said to be going in. Horn asked if some of the property in the proposed district had covenants and Walker replied some of the properties were under covenants. Horn said it was already protected and didn't need to be in the zoning district. Walker said, if there were covenants, they were very minimal.

David Morgan, 805 Cloud Creek Rd., represented the applicants as well. He pointed out the area where there was already a neighborhood association. He gave some personal history and said they had bought their home about 13 months ago and two weeks after they had moved in was when they first heard about the youth camp. He said it was a big wakeup call that their neighborhood was vulnerable to any and all unwanted development. He said that at a subsequent neighborhood meeting, they learned that zoning would give them a voice in the proposed development in and around the neighborhood. He said it was a peaceful and quiet neighborhood with large lots. The unwanted commercial development would have negative impacts in the area. He said many of the neighbors had built their homes to retire to someday and to pass on to family. He felt that the proposed zoning would protect the neighborhoods for future generations.

**AGENCY
COMMENTS
8:21 PM**

There were no public agencies present to comment. The staff reviewed the written comments during the staff report presentation.

**PUBLIC
COMMENT
8:21 PM**

Larsen asked about written comments received prior to the meeting that were in opposition. Mussman said that for the most part it was various signatures in support and opposition of the zoning. Larsen asked if the counts [of support and opposition] were accurate. Mussman said there were multiple individuals who had signed with one address and there were some property owners who owned multiple parcels. He said that he had about 46 parcels in support and

28 parcel opposed. Larsen asked how many total parcels. Mussman said approximately 100 parcels.

Chris Hartzell, 220 Cloud Creek Road, spoke in support of the application. He was concerned about the lack of zoning and what would could possibly be put in. They wanted to figure out a way to prevent commercial activity from coming in to that area. He discussed how they came up with the idea for a new zoning that would still allow what was currently happening in the area but restrict commercial development. They created a "hybrid" zoning [SAG-15] which would restrict commercial activity but allow the activities that were currently being used in the area. He said at the time and at the meeting, they were not provided with the information of the 15 acre minimum requirement. They had only addressed the list. He said that was something that was new to them and had come down the pike. After the petition went out and was presented, there was a campaign of misinformation that went out which resulted in a number of residence who pulled their support and then gave it back. There was some confusion. His recommendation was to adopt the SAG-15 because it was the most applicable hybridization that applies to the majority of the area but eliminate the 15 acre minimum and allow a lot of the areas to exist. He was in support to maintain a quiet residential area that allowed small activities. They had bought the property because it was unzoned but felt like they had to pick the lesser of two evils.

Kim Kruger, 625 Spring Creek Rd., spoke in support of the application. She was in agreement with what had been shared prior. She said the only reason why there were disagreements was because people wanted to leave their families with 5 acres. She felt that it was a shame that the one camp could have more say than all of the neighborhood put together. She said it was a shame that a business would have more say. They wanted to protect the mountain and keep it residential.

Johnny Fee, 700 Spring Creek Rd., spoke in support of the application. He wanted to keep it residential. He wanted to keep it the same and keep the commercial stuff out. He had bought the property for the privacy and tranquility. He never envisioned that a commercial venture would be his neighbor.

John Wehrman, 77 Cloud Creek Rd., spoke in opposition of the application. He wanted to be able to give family transfer to his son. If he wanted to put an Airbnb on the property to pay it off while they had it; he wouldn't be able to do it. He opposed it because it was taking away his abilities to be with his family and support how they saw fit.

Gail Macauley, 106 Mountain Shire Lane, spoke in opposition of the application. She had inherited the property she owned, along with many of her other family members, and she expressed frustration that she would not have a

say [with her property rights]. She said this zoning would not allow her to pass on the land to her family unless she had 15 acres to give. She had signed the petition in support initially but then opposed it when she understood what it meant. She initially thought it was about protection but it was not about protection, it was about taking away her freedoms and [property rights] to give land to her family. She felt it was just wrong. She said she would take a camp at the top of the hill before she would have her freedom taken away from her and her kids.

Gary Meccia, 340 Cloud Creek, spoke in opposition of the application. He said that the people who had spoken before already had covenants to protect them. He had bought the property because it was not zoned and had no covenants and he wanted it to stay that way.

Bruce Singer, 379 Cramer Creek Rd., spoke in opposition of the application. He was offended of the comments made that it was a slight burden for those who had acreage under 15 acres. He questioned the validity of the petition with people signing multiple times. He felt there was a lot of misinformation presented to the neighbors that caused chaos. He felt there was a gross representation of the mood in the neighborhood. He felt that the people who owned 10 acres or less would be penalized and the SAG-15 zoning would cause more damage than good.

Linda Meccia, 340 Cloud Creek Rd., spoke in opposition of the application. She was in agreement with what had been shared previously. She noted that in the application it stated that there had been very little development since 2009. She expressed that there were not a lot of commercial venues waiting to get in to the neighborhood. They had been living just fine. People had intended uses for her property and they were being grossly threatened by this zoning.

Jonathan Green, 1225 Cramer Creek Rd., spoke in opposition of the application. They had bought the property because there were no zoning regulations or covenants. They wanted to keep it that way. Everybody was free to do with their land what they wanted. He felt the same respect should be for everybody's property as well.

Elizabeth Kramer, 448 Cloud Creek Rd., spoke in opposition of the application. She had retrieved the signatures in opposition of the application. She felt there may be misrepresentation on the support. She said that it had been stated there were 60 people at the original meeting but the original meeting was with the intent to stop the camp. She was curious to know how many people were actually a part of the Spring Creek Association because the majority of the people she had spoken to were against the zoning.

Dallas Cook, 800 Spring Creek Rd., spoke in opposition of the application. He had just recently purchased the property. What had attracted him to the

property was that it did not have any restrictions. This was the first he had heard of an association. He strongly opposed the zoning. He said the camp would have a lot of hoops to jump. He wanted to be able to do what he wanted to do on his property and other people be able to do the same. He felt they were jumping the gun [in responding to the camp].

Mark Weston, 126 Bear Ridge Trail, spoke in opposition of the application. He said that people who lived there currently had done a really good job managing their property and keeping the commercial stuff out of there. There were a lot of private use roads that had limitations. He said it was a small community that watched out for one another. He felt like the zoning was a bad idea.

Sheila Wininger, 555 Spring Creek Rd., spoke in opposition of the application. She has had her property in her family for over 100 years and planned on continuing to doing so. She said development on Spring Creek Road was very slow. She said this application started out of fear of a camp. She said the road itself dictated that large things would not be able to go in. She said that the road was slow. She was confident that a big development would not be able to go up their mountain road. The plan to zone it was out of fear from the new neighbors. She would have explained this had they asked her.

James Norvell, 395 Spring Creek Road, spoke in opposition of the application. He felt it was an infringement on his property rights and he didn't want to see that change.

Dale Bland, 560 Spring Creek Road, spoke in opposition of the application. They had lived there since 1930's and didn't want to break it up. She wanted to be able to divide her acreage to her grand kids. She didn't want to have someone tell her what she could or could not do.

Brad Kramer, 448 Cloud Creek Road, spoke in opposition of the zoning. He had worked hard for the land and did not want his rights taken away. It was his land.

Shery Wehrman, 77 Cloud Creek Rd., spoke in opposition of the zoning. She had initially signed for the zoning because she had received a letter in the mail telling her she was going to lose "a,b,c, & d" without it saying what the zoning was. Then two weeks ago she found out what the proposed zoning was. She had never been informed of the meetings and was frustrated that people had made plans and ideas under the table without her as a landowner being informed of what was happening.

APPLICANT REBUTTAL

Walker mentioned that the people who had started the board made every effort to contact every person in the neighborhood. He had personally attended the

8:58 PM

first two meetings and there had been over 60 people at the first meeting and over 50 at the second. People brought their concerns forward at that time. He heard a lot of misunderstanding of what zoning was from the opposition. Zoning was not an HOA; they would not tell you if you had to paint your house a certain color or whether or not you can dig a hole to plant a tree. That was not what zoning was. He felt the board should understand that a lot of opposition to this was based on a misunderstanding of what zoning was. It was not un-American to have zoning. This was control of the neighborhood from the people who lived in it. He said the environment did not support [high] density. The roads were private and did not support a lot of traffic. He said the reason why people got together to do this was to keep the neighborhood the same. Not to change it and not to hurt people's property rights. He also thought that the opposition did not understand the grandfather effect here. If they had a 10-acre lot, it would not make it an illegal lot. People would be able to continue to live on their 10 acre lot.

**STAFF
REBUTTAL
9:00 PM**

Mussman addressed that notification of this public hearing had been sent to adjoining property owners as well as those within the proposed district. (People from the public confirmed that they had heard about it). He also mentioned zoning protected the value the property. There were a certain amount of your rights surrendered but it did outline what you can expect to do on your property as well as the neighbors who are zoned to do the same. It protected the value of the property knowing that your next door neighbor could not develop something that would alter the value of your property negatively.

In terms of any future development and transportation network, while this area was not zoned, it was subject to subdivision review if somebody wanted to bring in a subdivision. There were some avenues in which creating additional parcels would be exempt from review but there was a limit to family transfers and those types of reviews.

**MAIN MOTION
TO ADOPT F.O.F.
(FZD-19-01)
9:04 PM**

Stevens made a motion, seconded by Nogal, to adopt amended staff report FZD-19-01 as findings of fact.

**BOARD
DISCUSSION
9:04 PM**

Stevens opened up the discussion by reviewing a statement on page 8 in which he felt was inaccurate. He cited page 8 of the staff report stating:

As part of the plan, a future land use map was developed which shows that the property proposed to be zoned AG-20 is designated as Remote Forestry and the property proposed to be zoned SAG-15 is designated as Rural Residential. These designation appear to be consistent with the Lakeside Future Land Use Map.

He stated that it was inconsistent with the Lakeside Future Land Use map.

Mussman asked him to explain his interpretation. Stevens said SAG-15 did not have anything to do with rural residential. He read the definition of rural residential from the Lakeside Neighborhood Plan and said it was not consistent with what was in the staff report.

He also discussed a section on page 11 citing:

The proposed zoning district and subsequent zoning will continue to allow the same uses in the area that are currently being utilized.

He felt that was a smokescreen. He said it did not pertain to the reality of the situation and felt that it was logically inconsistent. He felt that it would limit the uses and potentially harm the value. He said the testimony that the people had written and spoken said the same thing.

He then proceeded to make his suggestions of amendments on the findings of fact. He started with finding #1. He explained that SAG-15 was not rural residential and it did not comply with the suggestion in the definitions of the Lakeside Neighborhood Plan.

**MOTION TO
AMEND F.O.F. #1
9:09 PM**

Stevens made a motion, seconded by Horn, to adopt amended finding of fact #1 to state:

The proposed zoning district appears to be **inconsistent** with the Lakeside Neighborhood Plan and Future Land Use Map because the proposed zoning appears to be **incompatible** with the Remote Forestry and Rural Residential designations; **encourage the preservation of open space; it will result in dramatically lower densities in the rural area; and it should protect the scenic, rural character of this part of the Lakeside planning area.** Further, this request should aide in reducing wildfire risk because the zoning will greatly reduce the potential density in the area, protect water quality by limiting development in the area, and maintain healthy wildlife habitat because the request dramatically reduces the amount of future development.

**BOARD
DISCUSSION
9:10 PM**

There was a little discussion by the board to clarify what exactly the motion was.

Larsen said he had looked at it as well and agreed with what Stevens had said. He said rural residential designation density ranged from 1 unit per 10 acres to a maximum density of 1 unit per 5 acre. He brought up the fact that SAG-15 did not currently exist in the zoning regulations and they were being asked to apply a designation on 1,600 acres of property. He said the 15 acre size was not consistent with the rural residential designation of the Lakeside Neighborhood Plan. He was in agreement with Stevens and supported the amendment to finding #1.

**ROLL CALL TO
AMEND F.O.F. #1
9:11 PM**

Motion was passed unanimously on a roll call vote.

**BOARD
DISCUSSION
9:11 PM**

Stevens continued with the suggested amendments and read Finding #2:

The proposed zoning district appears to be consistent with the Flathead County Growth Policy.

He said that it was inconsistent. The Lakeside Neighborhood Plan was an amendment to the Growth Policy, so if it was inconsistent with the neighborhood plan then it would be inconsistent with the growth policy.

Mussman said that the [Lakeside Neighborhood Plan] was an addendum to [The Flathead County Growth Policy] but not all of the requested zoning district was located within the Lakeside Planning area. Stevens asked if it was an amendment to the Growth Policy and Mussman clarified that it was an addendum. Larsen said it was adopted in to the Growth Policy and Mussman said, therefore, it was a part of the growth policy. Stevens said that if it was not consistent with that then it would not be consistent with the growth policy because it was a part of it.

Stevens read his motion. Mussman pointed out that not all of the proposed zoning district was within the Lakeside Neighborhood Plan. Stevens said that was correct. Mussman said that they had covered the neighborhood plan in finding #1. Mussman confirmed that Stevens felt that this request was inconsistent with the Growth Policy as well. Stevens said that ½ of it was because it was covered by the Lakeside Plan. Mussman asked about the other ½ and said that he got the feeling that Stevens felt like it was inconsistent with the Flathead County Growth Policy. Stevens said he knew of one that was inconsistent and Mussman said all they needed was one.

Adams read finding #2. He said that one thing that [this request] did not do was preserve the property rights. He felt it was gunning people's property rights. Stevens said Adams was exactly right. Stevens reviewed goal #2 of the Flathead County Growth Policy. He said that was the part where it was inconsistent with goal #2.

Larsen interjected because he had a role in the development of the growth policy. He reviewed part #6 of the Growth Policy. He also read #2. He said, when discussing the Growth Policy and property rights, it made it clear that it was in the general welfare for the people in Flathead County to have individual property rights. That was defined that you got to use your property as you wished unless there was a compelling reason to take that away. That was a burden that needed to be shown; that there was a compelling need to

have it taken away. He heard a lot of testimony this evening that people did not feel like there was a compelling need to give up their individual property rights. That was a burden he had to look at. He wanted to bring that up as they talked about finding #2. He didn't know if they needed to change finding #2 but he wanted to make that statement.

Stevens said that he wanted to continue to amend it because he felt it was important to continue on with one of the primary goals of the Growth Policy to give people protection for their individual property rights.

Mussman gave a suggestion for an amendment to finding #2.

**MOTION TO
AMEND F.O.F. #2
9:18 PM**

Adams made a motion, seconded by Nogal, to adopt amended finding of fact #2 to state:

The proposed zoning district appears to be **inconsistent** consistent with the Flathead County Growth Policy because **appears to undermine the protection of individual property rights.** the district and the requested zoning preserves the rights of the property owners in the area to the use and enjoyment of the property, and the proposed zoning appears to be directly linked to the vision outlined in the Growth Policy. In addition, the proposed district and zoning should protect the public health, safety and general welfare; the proposed district should preserve the cultural integrity of agricultural and timber lands and preserve the custom, and character of agriculture and forestry. Moreover, this request proposes land use densities and uses that should protect the health, safety and welfare of the property owners as well as the neighbors, and the request proposes reasonable and predictable development guidelines that appear to be compatible with the exiting uses in the area.

**BOARD
DISCUSSION
9:19 PM**

None

**ROLL CALL TO
AMEND F.O.F. #2
9:19 PM**

Motion was passed unanimously on a roll call vote.

**BOARD
DISCUSSION
9:19 PM**

Stevens said they needed to amend the same changes to the summary of finding. Mussman said it was just a house keeping situation.

Adams addressed finding #3 and read it. He referred to page 16 in the analysis and said that it gave the actual reason for this proposed zoning district as stopping a proposed camp being developed and not securing safety from fire and other dangers. Larsen said that [finding of fact #3] was statutory criteria that they had to look at. They have to say that it either met the criteria or it did not. Larsen understood what Adams was saying and explained that they had to answer a finding for each one of the statutory criteria.

Sirucek said that he scratched his head at [finding of fact #5] and read it aloud.

He said that somebody had to explain to him how a zone provided for adequate transportation [inaudible...]. He said that when you go through a subdivision, you go through the criteria, but he did not know of criteria except for SAG-5, SAG-10, or AG-20 that spelled out transportation design etc. That was what he was scratching his head at. Stevens said the reason it was written that way was because it was in state law. That was part of the statutory criteria that they had to address. That language was in title 76 MCA and each one of those was addressed by virtue of what it told them to address. They might be able to make a connection about transportation in density. Larsen said most of the findings were based on statutory criteria.

Horn brought up that there might be the same problem with finding #11 and read that aloud. Mussman made the amendment suggestion.

**MOTION TO
AMEND F.O.F.**

#11

9:25 PM

Larsen made a motion, seconded by Nogal, to adopt amended finding of fact #11 to state:

The proposed district has given consideration to the zoning ordinances of nearby municipalities, ~~because there are no nearby municipalities and the proposed zoning is compatible with the Lakeside Future Land Use Map.~~

**BOARD
DISCUSSION**

9:25 PM

None

**ROLL CALL TO
AMEND F.O.F.**

#11

9:25 PM

Motion was passed unanimously on a roll call vote.

**BOARD
DISCUSSION**

9:25 PM

Horn asked that they look at finding #10 and questioned the lot sizes. Stevens said there were a number of non-conforming lot sizes. Larsen agreed that it should probably be changed based on the numbers that they had. Mussman made a suggestion on an amendment and added that when you get in to the permitted and conditional uses of the SAG-15 zone, the uses that were currently there, do reflect the permitted and conditional uses in suburban agricultural zone. Stevens asked if Mussman had gone and looked at all 100 parcels. Mussman said he looked at almost all of them but did not go through gates and drive on private sections of Spring Creek Road.

**MOTION TO
AMEND F.O.F.**

#10

9:27 PM

Larsen made a motion, seconded by Sirucek, to adopt amended finding of fact #10 to state:

The proposed zoning district would conserve the value of buildings and encourage the most appropriate use of land because the proposed zoning use districts accurately reflect the existing uses ~~and lot sizes in the area.~~

**BOARD
DISCUSSION
9:27 PM**

None

**ROLL CALL TO
AMEND F.O.F.
#10
9:27 PM**

Motion was passed unanimously on a roll call vote.

**ROLL CALL TO
ADOPT F.O.F. AS
AMENDED
(FZD-19-01)
9:28 PM**

Motion was passed unanimously on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
DENIAL
(FZD-19-01)
9:28 PM**

Stevens made a motion, seconded by Schlegel, to recommend denial of FZD-19-01 to the Board of County Commissioners.

**BOARD
DISCUSSION
9:28 PM**

Stevens felt that this [application] was messy. He said he had never seen a board try to zone a government agency and the government would just laugh at you if you tried to do so. There was no legal way to do that. He explained that there may be some planned unit development going in because of the history behind the property. There was no way to enforce that and he did not see any way to force zoning upon the Forest Service Land. They were exempt from the local land use regulations. That was a minor thing. What was not a minor thing to Stevens was that he was being asked to forward a zoning district with a zone that did not exist. He said he could turn it down just based on that. He did not want to even contemplate a new zoning district with a zone that did not even exist. He doubted that the Commissioners would even pass that. He asked what was next; SAG-30 and SAG-50? He said he would turn it down based on the fact you can't pass a zoning district with a non-existent zone.

Larsen agreed with Stevens on the SAG-15 designation. It did not exist and therefor he could not vote for it. He did not know how they could put a designation on property that did not exist. He said the argument could be made that zoning district [text amendment] was coming up as the next item but they did not create zoning districts as a Planning Board. They made recommendations to Flathead County Commissioners. It was the Commissioners that made the zoning designations. The zoning designation would not exist until the appointed time that the County Commissioners

created it. They would just give a recommendation. There was no way that it would be created tonight.

The other thing that bothered Larsen was the number of non-conforming lots in this district. He understood that it had happened before [within the county] but it always bothered him when people's property became zoned, multiple people in a district, to a size of property that was bigger than the property that they owned. He disagreed with that. He felt the zoning district was premature and the zone should have been created first, otherwise, they should have picked out a zoning district that already existed. To adopt something that doesn't even exist would just be asking for a lawsuit [against the county]. Larsen was not able to support it as it was at this point.

Adams felt that it was weaponized zoning in response to stopping a camp being developed. He felt it was despicable that people would come in, trying to strip people of their property rights, based on not wanting a certain development from happening. People knew that it was unzoned and that was part of the reason why people bought out there. He also addressed a public comment made saying that zoning was not American. He said that he wasn't going to disagree with him but felt what was un-American was a group of people trying to forcibly come in and try to take away people's land use rights. He was not able to support it.

Stevens said the 60 people that were at the [initial association] meeting had not really shown up this evening. He saw a lot of people who were not in favor of. He felt the problem was, and it was sad, that when they involved the government in regulating people's private property rights, what happened was a whole lot of animosity and resentment. What used to be a neighborhood turns in to a war zone. It was sad. Resentment and stuff destroys communities because somebody had a scheme that would take away the private property rights of their neighbors and try to push it through. That irritated him sometimes because he hated to see the communities destroyed; sometimes whole communities by trying to control the behavior of the neighbors. He said he did not know if people, who wanted to start zoning their neighbors, understood how deeply it can damage their plans and their dreams, along with the whole welfare of their families. There were some big stakes at risk and, in his opinion, they were larger than a possible camp.

Sirucek said he was in agreement that they could not set up and agree to a zone that did not exist. There was almost 60% was non-conforming lots in the zone and he could not go there. What he suggested to the people in the audience that what needed to happen was they needed to make some amendments to the plan for their part of the world and develop some growth statements. They had the power to go back to the group and do that. At the same time, they would have a better voice talking with the Commissioners, if something did

come up as a development. He felt that, rather than squabbling, they could go back and tune up the community file a little bit. Together they may actually accomplish something.

Schlegel said most people bought up there because it was not zoned. That was why they bought there. Then somebody moved in and they wanted to change it, by zoning it and changing people's whole life. He understood that there was a place for zoning. He was for zoning. There were rules that needed to be followed when you are in that zoned area. He disagreed with the idea of forcing a zone on people when they were not zoned.

Horn recalled the public testimony from Wininger and said that she made the case that it would be difficult for development to occur because of the limitations by the road.

**ROLL CALL TO
RECOMMEND
DENIAL
(FZD-19-01)
9:41 PM**

The motion passed unanimously on a roll call vote.

**APPLICANTS
WITHDREW
FZD-19-01
9:42 PM**

Morgan said that based on the discussion, they wished to withdraw the [application]. They understood what the board had said and the concerns of the public.

**TEXT
AMENDMENT
(FZTA-19-02)
9:44 PM**

A request by the Flathead County Planning Board for multiple amendments to the Flathead County Zoning Regulations. The proposed amendments include the following sections: 3.08.040 regarding lot coverage and fence height, 3.30.030 and 3.31.030 regarding Mini storage, RV storage, 3.35.130 and 150 regarding conditional use and regulation review, 3.42.020 regarding guest houses and temporary uses, 4.04 regarding caretaker's facilities in the SAG-5, R-2.5, R-1, and RR-1 zones, 4.05 regarding cluster development in residential zones and covenants, and 8.05.160 regarding the definition of an dwelling, accessory.

**STAFF REPORT
9:46 PM**

Mark Mussman reviewed staff report FZTA-19-02 for the board.

**BOARD
QUESTIONS
9:47 PM**

The board intermittently asked Mussman for clarification as part of the staff report.

Adams asked about the part that had been struck, regarding the ADU, and discussed a clerical error that would need to be changed so that people would

be able to rent out their ADU as a source of income. It was decided that it should state:

Finding #3: The proposed text amendments, because of addressing language consistency issues, making the regulations more accessible to the general public, and providing more efficiency in administration should better promote public health, safety and general welfare.

**PUBLIC
COMMENT
9:57 PM**

None

**MAIN MOTION
TO ADOPT F.O.F.
(FZTA-19-02)
9:57 PM**

Sirucek made a motion, seconded by Nogal, to adopt staff FZTA-19-02 as findings of fact.

**BOARD
DISCUSSION
9:58 PM**

None

**ROLL CALL TO
ADOPT F.O.F.
(FZTA-19-01)
9:58 PM**

Motion was passed unanimously on a roll call vote.

**MAIN MOTION
TO
RECOMMEND
APPROVAL
(FZTA-19-02)
9:58 PM**

Schlegel made a motion, seconded by Sirucek, to recommend approval of FZTA-19-02 to the Board of County Commissioners.

**BOARD
DISCUSSION
9:58 PM**

None

**ROLL CALL TO
RECOMMEND
APPROVAL
(FZTA-19-02)
9:58 pm**

The motion passed unanimously on a roll call vote.

OLD BUSINESS None
9:58 pm

NEW BUSINESS None
9:58 pm

ADJOURNMENT The meeting was adjourned on a motion by Sirucek and Nogal at
9:59 pm approximately 9:59 p.m. The next meeting will be held November 13, 2019.



Greg Stevens, Vice-Chairman



Angela Phillips, Recording Secretary

 *APPROVED AS SUBMITTED/CORRECTED: 11/13/19*